

(3) Deductions from final check. A deduction exceeding the 15 percent of disposable pay limitation may be made from any final salary payment under 31 U.S.C. 3716 and the Federal Claims Collection Standards, in order to liquidate the debt, whether the employee is leaving voluntarily or involuntarily.

(4) Deductions from other sources. If an employee subject to salary offset is leaving the Commission and the balance of the debt cannot be liquidated by offset of the final salary check, then the Commission may offset later payments of any kind against the balance of the debt, as allowed by 31 U.S.C. 3716 and the Federal Claims Collection Standards.

(h) When two or more creditor agencies are seeking salary offsets, the Commission's payroll office may, in its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(i) The Commission is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

Subpart D—Administrative Wage Garnishment

§ 513.40 How will the Commission handle debt collection through administrative wage garnishment?

This part adopts all the provisions of the administrative wage garnishment regulations contained in 31 CFR 285.11, promulgated by Treasury, which allow Federal agencies to collect debts from a debtor's non-Federal pay by means of administrative wage garnishment authorized by 31 U.S.C. 3720D, and in 5 CFR parts 581 and 582, promulgated by the Office of Personnel Management, which provides for garnishment orders for child support and/or alimony and commercial garnishment of federal employees' pay.

PART 514—FEES

AUTHORITY: 25 U.S.C. 2706, 2708, 2710, 2717, 2717a.

§ 514.1 Annual fees.

(a) Each gaming operation under the jurisdiction of the Commission shall pay to the Commission annual fees as established by the Commission. The Commission, by a vote of not less than two of its members, shall adopt the rates of fees to be paid.

(1) The Commission shall adopt preliminary rates for each calendar year during the first quarter of that year (or as soon thereafter as possible), and, if considered necessary, shall modify those rates during the second and third quarters of the calendar year.

(2) The Commission shall adopt final rates of fees for each calendar year during the fourth quarter of that year.

(3) The Commission shall publish the rates of fees in a notice in the FEDERAL REGISTER.

(4) The rates of fees imposed shall be—

(i) No more than 2.5 percent of the first \$1,500,000 (1st tier), and

(ii) No more than 5 percent of amounts in excess of the first \$1,500,000 (2nd tier) of the assessable gross revenues from each gaming operation subject to the jurisdiction of the Commission.

(5) If a tribe has a certificate of self-regulation, the rate of fees imposed shall be no more than .25 percent of assessable gross revenues from self-regulated class II gaming operations.

(6) If a tribe is determined to be self-regulated pursuant to the provisions of 25 U.S.C. 2717(a)(2)(C), no fees shall be imposed.

(b) For purposes of computing fees, assessable gross revenues for each gaming operation are the annual total amount of money wagered on class II and III games, admission fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded, and less an allowance for amortization of capital expenditures for structures.

(1) Unless otherwise provided by the regulations, generally accepted accounting principles shall be used.

(2) The allowance for amortization of capital expenditures for structures shall not exceed 5% of the cost of structures in use throughout the year and 2½% of the cost of structures in use during only a part of the year.

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(3) Example:

Gross gaming revenues:			
Money wagered		\$1,000,000	
Admission fees	5,000		
			1,005,000
Less:			
Prizes paid in cash	\$500,000		
Cost of other prizes awarded	10,000	510,000	
			495,000
Gross gaming profit			495,000
Less allowance for amortization of capital expenditures for structures:			
Capital expenditures for structures made in—			
Prior years	750,000		
Current year	50,000		
		800,000	
Maximum allowance:			
\$750,000×.05 =	37,500		
50,000×.025=	1,250	38,750	
Assessable gross revenues			\$456,250

(4) All class II and III revenues from gaming operations are to be included.

(c) Each gaming operation subject to the jurisdiction of the Commission and not exempt from paying fees pursuant to the self-regulation provisions shall file with the Commission quarterly a statement showing its assessable gross revenues for the previous calendar year.

(1) These quarterly statements shall show the amounts derived from each type of game, the amounts deducted for prizes, and the amounts deducted for the amortization of structures;

(2) These quarterly statements shall be filed no later than—March 31, June 30, September 30, and December 31, of each calendar year the gaming operation is subject to the jurisdiction of the Commission, beginning in September 1991. For calendar year 1998, the quarterly statement for the first quarter shall be filed no later than April 13, 1998. Any changes or adjustments to the previous year's assessable gross revenue amounts from one quarter to the next shall be explained.

(3) The quarterly statements shall identify an individual or individuals to be contacted should the Commission

need to communicate further with the gaming operation. The telephone numbers of the individual(s) shall be included.

(4) The quarterly statements shall be transmitted to the Commission to arrive no later than the due date.

(5) Each gaming operation shall determine the amount of fees to be paid and remit them with the statement required in paragraph (c) of this section. The fees payable shall be computed using—

(i) The most recent rates of fees adopted by the Commission pursuant to paragraph (a)(1) or (a)(2) of this section,

(ii) The assessable gross revenues for the previous calendar year as reported pursuant to this paragraph, and

(iii) The amounts paid and credits received during previous quarters.

(6) Each quarterly statement shall include the computation of the fees payable, showing all amounts used in the calculations. The required calculations are as follows:

(i) Multiply the previous calendar year's 1st tier assessable gross revenues by the rate for those revenues adopted by the Commission.

(ii) Multiply the previous calendar year's 2nd tier assessable gross revenues by the rate for those revenues adopted by the Commission.

(iii) Add (total) the results (products) obtained in paragraphs (c)(6) (i) and (ii) of this section.

(iv) Multiply the total obtained in paragraph (c)(6)(iii) of this section by the fraction representing the quarter for which the computation is being made: 1st quarter— $\frac{1}{4}$; 2nd quarter— $\frac{1}{2}$ ($\frac{2}{4}$); 3rd quarter— $\frac{3}{4}$; and 4th quarter—1 ($\frac{4}{4}$). For the purpose of making these computations in 1991 only, the third calendar quarter is the first quarter and the fourth calendar quarter is the second quarter. There will be no third or fourth quarter in 1991.

(v) Subtract the amounts already remitted by the operation for the current year and credits, if any, which are due for any previous year's overpayment from the amount determined in paragraph (c)(6)(iv) of this section.

(vi) The amount computed in paragraph (c)(6)(v) of this section is the amount to be remitted.

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(7) Examples of fee computations follow:

(i) *Example 1:* Where a filing is made for the first quarter of the calendar year, the previous year's assessable gross revenues are \$2,000,000, the fee rates adopted by the Commission are 2% on the first \$1,500,000 and 4% on the remainder, and a credit of \$2,000 is due from the previous year, the amounts to be used and the computations to be made are as follows:

1st tier revenues—\$1,500,000×2%=	\$30,000
2nd tier revenues—500,000×4%=	20,000
Annual fees	50,000
Multiply for fraction of year—1/4 or25
Fees for first quarter	12,500
Deduct credit due	2,000
Amount to be remitted	\$10,500

(ii) *Example 2:* Where a filing is being made for the third quarter, the previous year's assessable gross revenues are \$5,000,000, the fee rates adopted by the Commission are 1% on the first \$1,500,000 and 1.5% on the remainder, and \$35,000 has already been remitted, the amounts to be used and the computations to be made are as follows:

1st tier revenues—\$1,500,000×1%=	\$15,000
2nd tier revenues—3,500,000×1.5%=	52,500
Annual fees	67,500
Multiply for fraction of year—3/4 or75
Fees for first three quarters	50,625
Deduct amounts already remitted ... ¹	35,000
Amount to be remitted	\$15,625

¹This amount may be other than \$33,750 (\$67,500×.50) because the assessable gross revenues may have been adjusted, the fee rate may have changed, a credit for the previous year's overpayment may have been received, or a clerical error may have been discovered.

(iii) *Example 3:* Where a filing is being made for the *third quarter of 1991*, the previous year's assessable gross revenues are \$5,000,000, the fee rates adopted by the Commission are 1% on the first \$1,500,000 and 1% on the remainder, and nothing has already been remitted, the amounts to be used and the computations to be made are as follows:

1st tier revenues—\$1,500,000×1%=	\$15,000
2nd tier revenues—3,500,000×1%=	35,000
Annual fees	50,000

Multiply for fraction of year—1/4 or

Fees for first quarter	12,500
Deduct amounts already remitted ...	-0-

Amount to be remitted .. \$12,500

(8) Quarterly statements, remittances and communications about fees shall be transmitted to the Commission at the following address: Office of Finance, National Indian Gaming Commission, 1441 L Street, N.W., Suite 9100, Washington, DC 20005. Checks should be made payable to the National Indian Gaming Commission (do not remit cash).

(9) The Commission may assess a penalty for failure to file timely a quarterly statement.

(10) Interest shall be assessed at rates established from time to time by the Secretary of the Treasury on amounts remaining unpaid after their due date (31 U.S.C. 3717).

(d) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due at the end of the quarter following the quarter during which the Commission makes such determination.

(1) The Commission will notify each gaming operation as to the amount of overpayment, if any, and therefore the amount of credit to be taken against the next quarterly payment otherwise due.

(2) The notification required in paragraph (d)(1) of this section shall be made in writing addressed to the gaming operation.

(e) Failure to pay fees, any applicable penalties, and interest related thereto may be grounds for:

(1) Closure, or

(2) Disapproving or revoking the approval of the Chairman of any license, ordinance, or resolution required under this Act for the operation of gaming.

(f) To the extent that revenue derived from fees imposed under the schedule established under this paragraph are not expended or committed at the close of any fiscal year, such funds shall remain available until expended (Pub. L. 101-121; 103 Stat. 718; 25 U.S.C. 2717a) to

defray the costs of operations of the Commission.

[56 FR 40709, Aug. 15, 1991; 56 FR 57373, Nov. 8, 1991, as amended at 63 FR 12316, Mar. 12, 1998; 69 FR 2505, Jan. 16, 2004]

PART 515—PRIVACY ACT PROCEDURES

Sec.

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AUTHORITY: 5 U.S.C. 552a.

SOURCE: 58 FR 5815, Jan. 22, 1993, unless otherwise noted.

§ 515.1 Purpose and scope.

(a) The purpose of this part is to inform the public of records maintained by the Commission about identifiable individuals and to inform those individuals how they may gain access to and amend records concerning themselves.

(b) This part carries out the requirements of the Privacy Act of 1974 (Pub. L. 93-579) codified at 5 U.S.C. 552a.

(c) The regulation applies only to records disclosed or requested under the Privacy Act of 1974, and not to requests for information made pursuant to 5 U.S.C. 552, the Freedom of Information Act.

§ 515.2 Definitions.

As defined in the Privacy Act of 1974 and for the purposes of this part, unless otherwise required by the context, the following terms shall have these meanings:

(a) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) *Maintain* means maintain, collect, use, or disseminate.

(c) *Record* means any item, collection, or grouping of information about an individual that is maintained by the Commission, including education, financial transactions, medical history, and criminal or employment history, and that contains the individual's name, or the identifying number, symbol, or other identifier assigned to the individual, such as social security number, finger or voice print, or a photograph.

(d) *System of records* means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifier assigned to the individual.

(e) *Routine use* means, with respect to the disclosure of a record, the use of such record for a purpose that is compatible with the purpose for which it was collected.

§ 515.3 Identification of individuals making requests.

(a) Any individual may request that the Commission inform him or her whether a particular record system named by the individual contains a record pertaining to him or her and the contents of such record. Such requests shall conform to the requirements of § 515.4 of this part. The request may be made in person or in writing at the NIGC, suite 250, 1850 M Street, NW., Washington, DC 20036-5803 during the hours of 9 a.m. to 12 noon and 2 p.m. to 5 p.m. Monday through Friday.

(b)(1) Requests made in writing shall include a statement, signed by the individual and either notarized or witnessed by two persons (including witnesses' addresses). If the individual appears before a notary, the individual shall submit adequate proof of identity in the form of a driver's license, birth certificate, passport, or other identification acceptable to the notary. If the statement is witnessed, it shall include a statement above the witnesses' signatures that they personally know the individual or that the individual has submitted proof of his or her identity to their satisfaction. In any case